

ABERDEEN CITY COUNCIL

COMMITTEE	Staff Governance
DATE	3 October 2022
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Employer Pension Discretions Policy – Local Government Pension Scheme
REPORT NUMBER	CUS/22/158
DIRECTOR	Andy MacDonald – Director – Customer Services
CHIEF OFFICER	Isla Newcombe – Chief Officer – People and Organisational Development
REPORT AUTHOR	Kirsten Foley – Employee Relations and Wellbeing Manager
TERMS OF REFERENCE	2.5

1. PURPOSE OF REPORT

- 1.1 This report seeks approval for the Council's revised Employer Pension Discretions Policy in respect of the Local Government Pension Scheme.

2. RECOMMENDATIONS

That the Committee: -

- 2.1 Approves the Council's revised Employer Pension Discretions policy as attached at Appendix A, which details the Council's declared policy on the specified pension discretions in respect of the Local Government Pension Scheme;
- 2.2 Notes the delegation of decisions in respect of application of certain of the specified discretions in Appendix A, to the appropriate Chief Officer, in consultation with the Chief Officer People and Organisational Development and the Chief Officer Finance, where it is indicated that individual cases will be considered on their merits or where a decision is required (unless the authoriser is specified); and
- 2.3 Notes the delegation of decisions in respect of application of other non-specified discretions to the Chief Executive or nominated deputy on a case-by-case basis.

3. CURRENT SITUATION

- 3.1 The Local Government Pension Scheme Regulations contain a number of regulations over which the employer has discretion.

- 3.2 Following changes to the Local Government Pension Scheme Regulations in 2018, all employers in the Scheme are now required to review and update their Pension Discretions Policy, as held by the North-East Scotland Pension Fund.
- 3.3 The Pension Discretions Policy outlines how the Council, as an employer of the Fund, will administer the Local Government Pension Scheme (LGPS) in respect of application of the various discretions.
- 3.4 The North-East Scotland Pension Fund informed Aberdeen City Council that the exercise to review and update employer Pension Discretions policies was delayed due to the Covid-19 pandemic and resourcing issues.
- 3.5 The Fund have since indicated that they are now able to complete the exercise and have provided a Pension Discretions Policy template and a Guide to employers in the Scheme to help them to prepare their revised policy.
- 3.6 The Council's existing policy was agreed at the Finance, Policy, and Resources Committee of 9 June 2015 as part of the introduction of the new Local Government Pension Scheme. A previous version of the policy had applied before that date.
- 3.7 The LGPS regulations state the requirement to have a policy position in the following areas in relation to the scheme:
- Additional Pension Contributions (Discretion 1)
 - Flexible Retirement (Discretions 3 and 4)
 - Rule of 85 (Discretion 5) *
 - The waiver, in whole or in part, of an actuarial reduction on benefits which a member voluntarily draws early (Discretions 6 and 7)
 - Granting additional pension in certain circumstances (Discretion 8)

* The "85 year rule" is referred to throughout and is summarised below for ease of reference.

If a member voluntarily draws benefits before their Normal Pension Age and they were a member of the Scheme on 1 December 2006, then some or all of their benefits could be protected from the normal actuarial reduction applied to benefits paid early under what is called the "85 year rule". The 85 year rule is satisfied if the member's age at the date they draw their benefits and their scheme membership (each in whole years) add up to 85 or more. If they are part-time, their membership counts towards the 85 year rule at its full calendar length. Not all membership may count towards working out whether a member meets the 85 year rule – see the 85 year rule document on the LGPS website for more information: <http://scotlgpsregs.org/resources/guidesetc.php>

- 3.8 In addition to the above, it is also necessary to compile a list of discretions for post-31 March 2009 / pre-1 April 2015 scheme leavers; to maintain a list of

discretions in respect of the 1998 Scheme in relation to pre-1 April 2009 scheme leavers; and to maintain a specific discretion in respect of the 1987 Scheme in relation to pre-1 April 1998 scheme leavers; as the employer still has to publish a policy in respect of its discretions for each of these.

- 3.9 It is also necessary to publish a policy on certain discretions in accordance with the regulations relating to the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998.
- 3.10 Also included in the policy are certain other discretions that employers are not compelled to have a policy position on, but it is advisable for employers to have written down. These are:
- Contributions (Discretions 11 and 12)
 - Shared Cost Additional Voluntary Contribution (SCAVC) arrangements (Discretion 13)
 - Assumed Pensionable Pay (Discretion 17)
 - Aggregation of Benefits: Election not to aggregate (Discretion 19)
 - Aggregation of Benefits: Election to aggregate (Discretion 20)
 - Transfers in (Discretion 28)
- 3.11 The recommended policy position on each pension discretion is shown in Appendix A for consideration and noting by Committee. Where a decision is required in respect of application of a specified discretion, including where it indicates that individual cases will be considered on their merits (unless the authoriser is specified), it is recommended in this report that Committee notes that authority is given to the relevant Chief Officer to decide on this, following consultation with the Chief Officer People and Organisational Development and the Chief Officer Finance.
- 3.12 In addition to the above, there are several employer discretions that do not require a written policy but are listed nonetheless in the pension scheme regulations. It is recommended in respect of application of these non-specified discretions that Committee notes that the policy position will be decided on a case-by-case basis by the Chief Executive or nominated deputy.
- 3.13 The Chief Officer Finance and Chief Officer Governance were both consulted in the compilation of the revised policy, as were the local trade unions.
- 3.14 Each employer is required to compile, publish, and keep under review a policy in relation to the application of various pension discretions and send this to the North-East Scotland Pension Fund, the administering authority.
- 3.15 Employees and former employees who are, or were, in the LGPS must be able to access the policy.

- 3.16 Once the policy is agreed, it will be published on the Council's intranet and on its external website and a copy sent to the North-East Scotland Pension Fund.

4. FINANCIAL IMPLICATIONS

- 4.1 With regard to certain of the pension discretions in Appendix A, where a decision is required in respect of application of a specified discretion, including where it indicates that individual cases will be considered on their merits, it is recommended in this report that the authoriser be the relevant Chief Officer, in consultation with the Chief Officer People and Organisational Development and the Chief Officer Finance (unless otherwise specified). It is the expectation that the application of these discretions would be infrequent, with financial, operational, or compassionate issues being considered before a final decision is made. The same would be the case in respect of application of the non-specified discretions.

Where a discretion is applied, there may be a cost associated with it. It is not possible to quantify such potential future costs of application. Where a discretion is applied, any associated cost would require to be met from the budget of the Cluster in which the employee is employed.

- 4.2 In respect of certain other discretions in Appendix A the policy position recommended is that the Council will not agree to apply the particular provision. In these cases, no costs will be incurred.

5. LEGAL IMPLICATIONS

- 5.1 Each employer in the Scheme is required to formulate and publish a policy under regulation 51A of the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 and regulation 58 of the Local Government Pension Scheme (Scotland) Regulations 2018. It is also necessary to keep the policy under review.
- 5.2 There are no other direct legal implications arising from the recommendations of this report.

6. ENVIRONMENTAL IMPLICATIONS

- 6.1 There are no direct environmental implications arising from the recommendations of this report.

7. RISK

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H) *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
Strategic Risk	No significant risks identified	N/A	N/A	N/A
Compliance	Formulating and publishing a pension discretions policy is a legal requirement and as such failure to undertake this would mean that the Council was not complying with its statutory obligations as a Scheme employer.	The Council's revised Employer Pension Discretions policy attached to this report details its declared policy on the specified pension discretions, as required by the legislation. The policy is based upon the Pensions Discretions Policy template provided by the North East Scotland Pension Fund.	L	Yes
Operational	No significant risks identified.	N/A	N/A	N/A
Financial	The application of certain of the pension discretions involve a cost, and so in setting the discretions there is a risk of the Council	In the compilation of the revised pension discretions, attention has been given to balancing affordability with fairness to help ensure that the policy is cost effective as well as providing scheme members/former members with fair provisions. It has been	M	Yes

	incurring increased costs inadvertently, if the effect of application of the discretions are not understood.	consulted on with the Chief Officer - Finance to ensure that the effects of setting the discretions are understood and affordable.		
Reputational	No significant risks identified.	N/A	N/A	N/A
Environment / Climate	No significant risks identified.	N/A	N/A	N/A

8. OUTCOMES

<u>COUNCIL DELIVERY PLAN</u>	
Impact of Report	
<u>Aberdeen City Local Outcome Improvement Plan</u>	
Prosperous Economy Stretch Outcomes	The Prosperous Economy theme in the LOIP makes mention of the importance of retaining talent and expertise in City organisations. This would include the Council. Having an affordable and fair revised pensions discretion policy in place, should help to confirm the Council's reputation as an employer applying good employment practices and may contribute to the retention of trained and valued employees. This would mean that they can continue in post delivering effective services to citizens and businesses, indirectly contributing to the City's economy.
Prosperous People Stretch Outcomes	The Prosperous People theme in the LOIP indicates that all people in the City are entitled to feel safe, protected from harm and supported where necessary, which would include employees of the Council. Having a revised pensions discretion policy in place which is affordable and fair, should assist in the support of Council employees who are members of the Local Government Pension Scheme. This may indirectly benefit employee mental health and wellbeing allowing staff to function both in employment and at home.

9. IMPACT ASSESSMENTS

Assessment	Outcome
Integrated Impact Assessment	An Integrated Impact Assessment has been compiled in respect of the revised policy and no negative impacts have been identified.
Data Protection Impact Assessment	Not required.
Other	N/A

10. BACKGROUND PAPERS

10.1 The North-East Scotland Pension Fund 'Guide to Discretions – May 2022' was referred to in the preparation of this report and is attached as Appendix B.

11. APPENDICES

11.1 Appendix A – The Council's revised Employer Pension Discretions Policy.

11.2 Appendix B – North-East Scotland Pension Fund 'Guide to Discretions – May 2022'.

12. REPORT AUTHOR CONTACT DETAILS

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Aberdeen City Council



Employer Discretions Policy

This policy on discretions applies with effect from 3/10/22 and sets out our policy on the way in which we are likely to exercise our discretions as a Scheme employer under the Local Government Pension Scheme in Scotland.

The document begins by setting out the position in so far as it relates to the current Scheme, but for former members of the Scheme a number of other key provisions remain relevant depending on when they were a member and these are detailed further later on.

Where a decision is required in respect of the application of a specified discretion, including where it indicates that individual cases will be considered on their merits (unless the authoriser is specified), authority is given to the relevant Chief Officer, in consultation with the Chief Officer People and Organisational Development and the Chief Officer Finance to decide on this.

If you have any queries on this policy, please contact the Employee Relations and Wellbeing Team, People and Organisational Development by email: employeerelations@aberdeencity.gov.uk

PLEASE NOTE THAT IF A DISCRETION IS IN BOLD THIS MEANS A WRITTEN POLICY REGARDING IT MUST BE MAINTAINED

Current discretions including those applicable to the current career average revalued earnings (CARE) Scheme

The following table sets out discretions under the current Local Government Pension Scheme which is governed by the Local Government Pension Scheme (Scotland) Regulations 2018. In some cases, the equivalent discretions under Local Government Pension Scheme (Scotland) Regulations 2014 will apply instead and so some entries in the table make reference to both sets of regulations. The Scottish Government has clarified that 2018 Regulations did not create a new scheme.

The following regulations are referred to for this purpose:

- **the Local Government Pension Scheme (Scotland) Regulations 2018 [prefix R]¹**
- **the Local Government Pension Scheme (Scotland) Regulations 2014 [prefix R2]²**
- **the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014 [prefix TP]**
- **the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 [prefix A]**
- **the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008 (as amended) [prefix B]**
- **the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008 [prefix T]**
- **the Local Government Pension Scheme (Scotland) Regulations 1998 (as amended) [prefix L]**

Discretion	Regulation	Aberdeen City Council's policy on the exercise of this discretion
1. Whether, how much, and in what circumstances to contribute to a shared cost APC scheme.	R16(2)(e) & R16(4)(d)	The Council does not have a general policy to contribute to a shared cost APC scheme but may do so if exceptional circumstances can be proved. Each case will be considered on its merits.
2. Whether to extend 30-day deadline for member to elect for a shared cost APC upon return from a period of absence from work with permission with no pensionable pay (otherwise than because of illness or injury, relevant child-related leave or reserve force service leave).	R16(16)	The Council may extend the deadline in exceptional circumstances where it can be shown that members may not have been informed of the requirement for this decision within 30 days of return.
3. Whether all or some benefits can be paid if an employee reduces their hours or grade from age 55 onwards (flexible retirement).	R29(7) & TP11(2) ³	The Council will consider requests on a case-by-case basis under its flexible retirement policy.

¹ The 2018 Regulations (R) apply to post 01.06.2018 active members and post 01.06.2018 leavers and discretions in the table under the 2018 Regulations only apply to those persons

² The 2014 Regulations (R2) apply to members who left the scheme between 01.04.2015 and 31.05.2018 and discretions in the table under the 2014 Regulations only apply to those persons

³ TP11(2) refers to R2~29(6): this reference is understood to have been carried forward to R29(7) by R102(2)

<p>4. Whether to waive, in whole or in part, any actuarial reduction on benefits paid on flexible retirement.</p> <p><u>Note:</u> any resultant strain cost from the exercise of this discretion will be charged to the employer regardless of the member's age at date of retirement.</p>	<p>R29(9) and TPSch 2, para 2(1)</p>	<p>The Council will not waive, in whole or in part, the actuarial reduction on the benefits paid due to flexible retirement.</p>
<p>5. Whether to apply the 85-year rule for a member voluntarily drawing benefits, with employer consent, on or after age 55 and before age 60 (other than on the grounds of flexible retirement).</p>	<p>TPSch 2, paras 1(2) and 2(1)⁴</p>	<p>The Council will not agree to apply the 85-year rule where members choose to voluntarily draw their benefits on or after age 55 and before age 60 except in circumstances where the Council considers it is in its financial or operational interests to do so. Each case will be considered on the merits of the financial and / or operational business case put forward, and will require the approval of the Chief Executive or nominated deputy.</p>
<p>6. Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age, other than on the grounds of flexible retirement (where the member only has post 31/3/15 membership).</p> <p><u>Note:</u> any resultant strain costs due to the exercise of this discretion will be charged to the employer regardless of the employee's age.</p>	<p>R29(9) or R2 29(8)</p>	<p>The Council will not generally waive the actuarial reduction applied to benefits paid before a member has reached Normal Pension Age.</p>
<p>7. Whether to waive, in whole or in part, any actuarial reduction on pre and post April 2015 benefits which a member voluntarily draws before normal pension age other than on the grounds of flexible retirement (where the member has both pre 1/4/15 and post 31/3/15 membership).</p>	<p>TP3(1), (5) and (12), TPSch 2, para 2(1)⁵</p>	<p>The Council will not generally waive the actuarial reduction applied to benefits paid before a member has reached Normal Pension Age.</p>
<p>8. Whether to grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to a prescribed cap).</p>	<p>R30</p>	<p>The Council does not have a general policy to grant additional pension to a member (the overall cap on the maximum amount which can be granted was initially set in 2015 at £5,000 and increases annually).</p>

⁴ Discretion applicable to all scheme members to whom the 2018 or 2014 Regulations apply.

⁵ Discretion applicable to all scheme members to whom the 2018 or 2014 Regulations apply.

<p>9. Decide which employees to nominate for membership (admission bodies).</p>	<p>R3(1)(b)</p>	<p>All employees who are eligible to join the scheme will be nominated for membership in accordance with the Council's admission agreement with NESPF.</p>
<p>10. Whether, in respect of an admission body providing a service in respect of outsourced work, to set off against payments due to that body any sums due from that body to the Fund.</p>	<p>RSch 2, Part 2, para 12(c)</p>	<p>The Council will consider any application of this discretion on a case-by-case basis on its individual merits.</p>
<p>11. Determine the rate of employee's contributions.</p>	<p>R9(1) to R9(4)</p>	<p>The employee's rate of contributions will be determined in accordance with these Regulations and from the guidance issued by the Scottish Ministers.</p> <p>The Council will reassess a member's contribution rate and apply this for the remainder of the financial year, where a permanent and material change comprises an increase or decrease in a member's pensionable pay of over £4000 per annum (pro rata for part-time).</p>
<p>12. Determine intervals at which employees' contributions are to be made.</p>	<p>R9(8)</p>	<p>Employees' contributions will be aligned to the Council's set pay periods.</p>
<p>13. Whether and in what circumstances to contribute to a shared cost AVC scheme.</p>	<p>R17(1) & definition of SCAVC in RSch 1</p>	<p>It is not the Council's policy to establish a shared cost AVC scheme. The only such scheme will be a salary sacrifice scheme.</p>
<p>14. Allow late application to convert scheme AVCs into membership credit i.e. allow application more than 30 days after cessation of active membership (where AVC arrangement was entered into before 30/6/05).</p>	<p>TP15(1)(b) & L65(8) & former L65(9)(b)⁶</p>	<p>The Council will not have a general policy to allow late application to convert scheme AVCs into membership credit but may do so if exceptional circumstances can be demonstrated, such as the member being unaware of this right. Each case will be considered on its individual merits.</p>
<p>15. No right to a return of contributions due to an offence of a fraudulent character or grave misconduct unless the employer directs a total or partial refund is to be made.</p>	<p>R19(2)</p>	<p>The Council will not direct a return of contributions in the event of an offence of a fraudulent character or grave misconduct.</p>

⁶ Discretion applicable to all scheme members to whom the 2018 or 2014 Regulations apply.

<p>16. Specify in an employee’s contract what other payments or benefits, other than those specified in R20(1)(a) and not otherwise precluded by R20(2), are to be pensionable.</p>	<p>R20(1)(b)</p>	<p>Elements of pay received by an employee other than those specified in these regulations and not otherwise precluded will only be pensionable if specified as such in the member’s contract of employment.</p>
<p>17. In determining Assumed Pensionable Pay (APP), whether a lump sum payment made in the previous 12 months is a “regular lump sum”.</p>	<p>R21(5)</p>	<p>The exercise of this discretion will be considered on a case-by-case basis on its merits, with due regard given to all circumstances relating to the calculation of a member’s APP.</p>
<p>18. Where in the Employer’s opinion, the pensionable pay received in relation to an employment (adjusted to reflect any lump sum payments) in the 3 months (or 12 weeks if not paid monthly) preceding the commencement of Assumed Pensionable Pay), is materially lower than the level of pensionable pay the member would have normally received, decide whether to substitute a higher level of pensionable pay having had regard to the level of pensionable pay received by the member in the previous 12 months.</p>	<p>R21(6)</p>	<p>Where pensionable pay in the 3-month period prior to commencement of APP is materially lower than the level of pay that would normally have been received, the Council will not normally substitute this with a higher level of pensionable pay, except when determining calculations for ill health retirement or death in service when the Council will consider each case on its merits.</p>
<p>19. Whether to extend the 12-month option period for a member to elect that post 2015 deferred benefits should <u>not</u> be aggregated with an ongoing concurrent employment.</p>	<p>R22(7)(b)</p>	<p>The Council will not normally extend the 12-month time limit but may do so if exceptional circumstances can be demonstrated. Each case will be considered on its merits.</p>
<p>20. Whether to extend the 12-month option period for a member to elect that post 2015 deferred benefits should <u>not</u> be aggregated with a new employment.</p>	<p>R22(8)(b)</p>	<p>The Council will not normally extend the 12-month time limit but may do so if exceptional circumstances can be demonstrated. Each case will be considered on its merits.</p>
<p>21. Whether to extend the 12-month option period for a member to elect that pre 2015 deferred benefits for a member who re-joined post 31 March 2015 can be aggregated to purchase an amount of CARE pension.</p>	<p>TP10(6)⁷</p>	<p>The Council will not normally extend the 12-month time limit but may do so if exceptional circumstances can be demonstrated. Each case will be considered on its merits.</p>
<p>22. Whether to use a certificate produced by an Independent Registered Medical Practitioner (IRMP) under the 2009 Scheme for the purposes of making an ill health determination under the 2015 Scheme.</p>	<p>TP12(4)</p>	<p>The Council will not have a general policy regarding this issue.</p>

⁷ Discretion applicable to all scheme members to whom the 2018 or 2014 Regulations apply.

23. Whether to apply to Scottish Ministers for a forfeiture certificate (where member is convicted of a relevant offence).	R86(1) & (8) or R2 89(1) & (8)	After considering each case on its individual merits, the Council may apply for a forfeiture certificate where a member is convicted of a relevant offence.
24. Where a forfeiture certificate is issued, whether to direct that benefits are to be forfeited (other than rights to GMP – but see R89/ R2 92 below).	R86(4) or R2 89(4)	Following the issue of a forfeiture certificate, the Council may direct that benefits are to be forfeited.
25. Whether to recover from the Fund any monetary obligation or, if less, the value of the member's benefits (other than, transferred in pension rights or AVCs/ SCAVCs) where the obligation was incurred as a result of a grave misconduct or a criminal, negligent or fraudulent act or omission in connection with the employment and as a result of which the person has left the employment.	R87(2) or R2 90(2)	After considering each case on its individual merits, the Council may recover from North-East Scotland Pension Fund the amount of loss in cases of criminal, negligent or fraudulent acts by a member.
26. Whether, if the member has committed treason or been imprisoned for at least 10 years for one or more offences under the Official Secrets Acts, forfeiture under R86/ R2 89 or recovery of a monetary obligation under R87/ R2 90 should deprive the member or the member's surviving spouse or civil partner of any GMP entitlement.	R89 or R2 92	The Council may consider whether there should be forfeiture under R 86 or recovery of a monetary obligation under R 87, the member or the member's surviving spouse or civil partner should be deprived of any Guaranteed Minimum Pension entitlement. Each case will be considered on its individual merits.
27. Decide whether to issue a Certificate of Protection if the member does not request one within 12 months of a reduction or restriction in pay.	R90(5) or R2 93(4A)	The Council will normally issue a Certificate of Protection of pension benefits if requested by the employee within twelve months of the date of reduction. A certificate may be issued on application from the member out with the 12-month period specified in the regulations if exceptional circumstances can be demonstrated, such as the employee being unaware of this facility.
28. Agree to bulk transfer payment.	R93(1)(b) or R2 96(1)(b)	The Council will consult with NESPF and the fund actuaries in this regard.
29. Extend normal time limit for acceptance of a transfer value beyond the 12-month time limit from joining the LGPS.	R95(6)	The Council will not generally extend the normal time limit for acceptance of a transfer value beyond 12 months from joining the scheme but may do so where exceptional circumstances can be proved. Each case will be considered on its individual merits including if there would be any financial impact on the Council and/or the Pension Fund.

<p>30. Whether to allow a member to select final pay period for fees to be any 3 consecutive years ending in the 10 years prior to leaving and ending on the anniversary of the date of leaving.</p>	<p>TP3(6), TP4(6)(c), TP8(4), TP10(2)(a), TP17(2)(b) & B11(2)⁸</p>	<p>The Council will allow a member to select final pay for fees to be any three consecutive years ending 31st March in the 10 years prior to leaving. The Council agree that this will automatically be done by NESPF.</p>
<p>31. Issue a certificate of protection of pension benefits where eligible non-councillor member fails to apply for one (pay cuts / restrictions occurring pre-1.4.15)</p>	<p>TP3(1)(a), A43(5)⁹</p>	<p>The Council will issue a certificate of protection of pension benefits if requested by the employee within twelve months of the date of reduction. A certificate may be issued on application from the member out with the 12-month period specified in the regulations if exceptional circumstances can be proved such as the employee being unaware of this facility.</p>

Formulating and publishing a policy under the 2014 and 2018 Regulations

The employer must formulate, publish and keep under review a statement of their policy. A copy of the policy must be sent to the relevant administering authority.

If the employer decides to amend the policy, they must send a copy to the relevant administering authority within one month of the date of the decision to amend the policy.

In formulating and reviewing its policy an employer is required by the Regulations to have regard to the extent to which the exercise of their discretionary powers could lead to a serious loss of confidence in the public service.

⁸ Discretion applicable to all scheme members to whom the 2018 or 2014 Regulations apply.

⁹ Discretion applicable to all scheme members to whom the 2018 or 2014 Regulations apply.

Discretions specific to scheme members who ceased active membership on or after 01 April 2009. and before 01 April 2015

Discretion	Regulation	Aberdeen City Council policy on the exercise of this discretion
Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early.	B30(5)	The Council will not generally waive, in whole or in part, the actuarial reduction on deferred benefits paid early. The Council may consider waiving the actuarial reduction on compassionate grounds with each case considered on its merits.
Allow late application to convert scheme AVCs into membership credit i.e. allow application more than 30 days after cessation of active membership.	TSch1 & L65(8) & former L65(9)(b)	The Council will not have a general policy to allow late application to convert scheme AVCs into membership credit but may do so if exceptional circumstances can be demonstrated, such as the member being unaware of this right. Each case will be considered on its individual merits.
No right to a return of contributions due to an offence of a fraudulent character or grave misconduct unless the employer directs a total or partial refund is to be made.	A42(2)	The Council will not direct a return of contributions in the event of an offence of a fraudulent character or grave misconduct.
Employer may issue a certificate of protection where an employee fails to apply for one.	A43(5)	The Council will issue a certificate of protection of pension benefits if requested by the employee within twelve months of the date of reduction. A certificate may be issued on application from the member out with the 12-month period specified in the regulations if exceptional circumstances can be proved such as the employee being unaware of this facility.
Whether Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund.	A45(1) & (2)	The Council will consider each case on its merits.
Whether to extend six-month period to lodge a stage one Internal Dispute Resolution Procedure (IDRP) appeal (where employer is the person making the stage one IDRP decision in the case of a pre-01.04.15 leaver).	A54(7)(b)	The Council will consider each case on its merits.
Whether to apply to the Scottish Ministers for a forfeiture certificate (where a member is convicted of a relevant offence).	A66(6)	The Council may apply for a forfeiture certificate where a member is convicted of a relevant offence
Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited.	A66(2)	Following the issue of the forfeiture certificate, the Council may direct that benefits are to be forfeited.

Where forfeiture certificate is issued, whether to direct interim payments out of the Pension Fund until a decision is taken to either apply the certificate or to pay benefits.	A67(1) & (2)	Following the issue of a forfeiture certificate, the Council may direct interim payments out of the Pension Fund until a decision is taken to either apply the certificate or to pay benefits.
Whether to recover from the Fund any monetary obligation or, if less, the value of the member's benefits (other than transferred in pension rights or AVCs/SCAVCs) where the obligation was as a result of a criminal, negligent or fraudulent act or omission in connection with the employment and as a result of which the person has left the employment.	A68(2)	After considering each case on its individual merits, the Council may recover from North-East Scotland Pension Fund the amount of loss in cases of criminal, negligent or fraudulent acts by a member.
Whether to recover from the Fund any financial loss caused by fraudulent offence or grave misconduct of an employee (who has left because of that) or amount of refund if less.	A70(2) & (3)	After considering each case on its individual merits, the Council may recover from North-East Scotland Pension Fund the amount of loss caused by fraudulent offence or grave misconduct of the employee (who has left because of that) or the amount of refund if less.
Whether to allow a member to select a final pay period for fees to be any 3 consecutive years ending with 31 st March in the 10 years prior to leaving.	B11(2)	The Council will allow a member to select final pay for fees to be any three consecutive years ending 31 st March in the 10 years prior to leaving. The Council agree that this will automatically be done by NESPF.

Formulating and publishing a policy under the 2009 Scheme Regulations

The employer must formulate, publish, and keep under review a statement of their policy. A copy of the policy must be sent to the relevant administering authority.

If the employer decides to amend the policy, they must send a copy to the relevant administering authority within one month of the date of the decision to amend the policy.

In formulating and reviewing its policy an employer is required by the Regulations to have regard to the extent to which the exercise of their discretionary powers could lead to a serious loss of confidence in the public service.

Discretions under the Local Government Pension Scheme (Scotland) Regulations 1998 (as amended) specific to pre 01.04.2009 scheme leavers

Discretion	Regulation	Aberdeen City Council policy on the exercise of this discretion
Grant application from a post 31.3.98. / pre-1.4.09. leaver for early payment of benefits on or after age 50 and before age 60 (see Important Note below this table).	30(2)	The Council will consider each case on its merits and consult with NESPF.
Waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31.3.98. / pre-1.4.09. leaver. <i>Note:</i> any resultant strain cost from the exercise of this discretion will be charged to the employer regardless of the member's age at date of retirement.	30(5)	The Council will not waive, in whole or in part, the actuarial reduction on the benefits paid before normal pension age.
Pre 1.4.09 optants out only to get benefits paid from Normal Retirement Date (NRD) while in service if employer agrees.	30(7A)	The Council has determined not to exercise its discretion to allow an employee who has opted out of the LGPS, to access their benefits at normal retirement age if they continue to be employed by the Council.
Allow member to select final pay period for fees to be a period of not less than 3 or more than 5 years back from date of leaving [Note: to all intents and purposes this discretion is now spent].	21(1)(b)	The Council will consider each case on its merits.
Decide, in the absence of an election from the member within 3 months of being able to elect, which benefit is to be paid where the member would be entitled to a pension or retirement grant under 2 or more regulations in respect of the same period of Scheme membership (post 31.3.98 / pre 1.4.09 leavers).	33(1)(b)	The Council may exercise this discretion in partnership with NESPF.
Consent to a member's former employer assigning to the new employer rights under any SCAVC life assurance policy.	70(7)(a)	The Council will consider any instance of this position on its merits.
Agree dates on which instalments under reg 79(5) (Employer's Further Payments) are due.	79(7)(b)	The Council may exercise this discretion in partnership with NESPF.

No right to return of contributions due to offence of a fraudulent character unless employer directs a total or partial refund is to be made (pre-1.4.09. leavers).	87(2)	The Council will not direct a return of contributions in the event of an offence of a fraudulent character or grave misconduct.
Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund (pre-1.4.09. leavers).	91	The Council will consider each case on its merits.
Forfeiture of pension rights on issue of Secretary of State's certificate (pre-1.4.09. leavers).	111(2) & (5)	After considering each case on its merits, the Council may apply for a forfeiture certificate where a member is convicted of a relevant offence.
Where forfeiture certificate is issued, direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits (pre-1.4.09. leavers).	112(1)	Following the issue of a forfeiture certificate, the Council may direct that benefits are to be forfeited.
Recovery from Fund of monetary obligation owed by former employee or, if less, the value of the member's benefits (other than transferred in pension rights) (pre-1.4.09. leavers).	113(2)	The Council will consider each case covered by this regulation on its merits.
Recovery from Fund of financial loss caused by employee, or amount of refund if less (pre-1.4.09. leavers).	115(2) & (3)	The Council will consider each case covered by this regulation on its merits.

Note: benefits paid on or after age 50 and before age 55 are subject to an unauthorised payments charge and, where applicable, an unauthorised payments surcharge under the Finance Act 2006. Also, any part of the benefits which had accrued after 5 April 2006 would generate a scheme sanction charge.

Formulating and publishing a policy under the LGPS (Scotland) Regulations 1998

The employer must formulate, publish and keep under review a statement of their policy. A copy of the policy must be sent to the relevant administering authority.

If the employer decides to amend the policy, they must send a copy to the relevant administering authority within one month of the date of the decision to amend the policy.

In formulating and reviewing its policy an employer is required by the Regulations to have regard to the extent to which the exercise of their discretionary powers could lead to a serious loss of confidence in the public service.

Discretions under the Local Government Superannuation (Scotland) Regulations 1987 (as amended) specific to pre 01.04.1998. scheme leavers

Discretion	Regulation	Aberdeen City Council's policy on the exercise of this discretion
1. Grant application from a pre-1.4.98 leaver for early payment of deferred benefits on or after age 50 on compassionate grounds (see Important Note below this table).	E2(6)(b)	The Council will consider each case on its merits and consult with NESPF.

Note: benefits paid on or after age 50 and before age 55 are subject to an unauthorised payments charge and, where applicable, an unauthorised payments surcharge under the Finance Act 2006. However, as the benefits had accrued prior to 6 April 2006, they would not generate a scheme sanction charge.

Discretions specific to the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 (as amended)

Under Regulation 51A of the Discretionary Payments Regulations, there is a general obligation on schedule body Scheme employers to formulate and keep under review a policy which applies in respect of exercising their discretions under these regulations. In practice this facility is open to admitted body scheme employers wishing to offer benefits under these regulations. Those wishing to do so also need to maintain such a policy.

Mandatory discretions

The following table sets out mandatory discretions which should be included in such a policy:

Discretion	Regulation	Aberdeen City Council's policy on the exercise of this discretion
Power to increase statutory redundancy payments above statutory weekly pay limit	4(1)	The Council's policy in relation to those employees whose weekly basic pay exceeds the statutory maximum payment is to be paid the statutory maximum plus 33% of the difference between the statutory maximum payment and the employee's basic weekly pay.
To award compensatory added years to an individual on retirement on efficiency / redundancy grounds	8(1)	The Council's policy is that it will not normally exercise its discretion to award added years to employees who are seeking early retirement. It is only in cases where there are exceptional circumstances determined by the Chief Executive in consultation with the Convenor of the appropriate Committee on recommendation of the relevant Director, shall added years be considered and granted.
How to apportion any surviving spouse's annual compensatory added years payment where the deceased person is survived by more than one spouse.	20(2)	The Council will consider each case on its merits.
If, under the preceding decision, the authority's policy is to apply the normal suspension rules, whether the spouse's or civil partner's annual compensatory added years payment should be	20(4)	The Council will consider each case on its merits.

reinstated after the end of the remarriage, new civil partnership or cohabitation.		
Whether, in respect of the spouse or civil partner of a person who ceased employment before 1 April 1998, the normal pension suspension rules should be disapplied during a period of remarriage or new civil partnership i.e. whether the spouse's or civil partner's annual compensatory added years payments should continue to be paid.	20(6)	The Council will consider each case on its merits.
Whether, in respect of the spouse or civil partner of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries or cohabits or enters into a civil partnership with another person who is also entitled to a spouse's or civil partners annual CAY payment, the normal rule requiring one of them to forego payment whilst the period of marriage, civil partnership or co-habitation lasts, should be disapplied i.e. whether the spouses' or civil partners' annual CAY payments should continue to be paid to both of them.	20(6)	The Council will consider each case on its merits.
How it will decide to whom any children's annual compensatory added years payments are to be paid where children's pensions are not payable under the LGPS (because the employee had not joined the LGPS) and, in such a case, how the annual added years will be apportioned amongst the eligible children.	26(2)	The Council will consider each case on its merits.
Intervals at which instalments of annual compensation are payable (paying authority may agree to pay at different intervals to that on which LGPS pension is payable).	29(1)	The Council may exercise this discretion in partnership with NESPF.
To award lump sum compensation of up to 104 weeks' pay instead of compensatory added years	35	The Council's policy is that a lump sum Voluntary Severance Payment can be made in appropriate cases under the Voluntary Severance/Early Retirement Scheme, based on age and completed years of service in accordance with a ready reckoner (in the Scheme) offering a payment of up to a maximum of 82.5 weeks' pay. This is regardless of whether the employee is a member of the Local Government Pension Scheme.
To award a lump sum of up to 30 weeks' pay in cases where, in the case of a member of the LGPS who has 2 or more years membership, the employer terminates employment on the	49B	The Council will award a lump sum of up to 30 weeks' pay in cases where, in the case of a member of the LGPS who has 2 or more years membership, the employer terminates employment on the grounds of ill health or infirmity of

<p>grounds of ill health or infirmity of mind or body but does not terminate the employment under regulation 34 of the LGPS Regulations (Scotland) 2018.</p>		<p>mind or body but does not terminate the employment under regulation 34 of the LGPS Regulations (Scotland) 2018. The employee must have been medically assessed for a Tier1 or 2 ill health retirement in advance and been deemed not to meet the set criteria for ill health retirement.</p>
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Formulating and publishing a policy under regulation 51A of the Discretionary Payments Regulations 1998

Each employer obliged to maintain a policy statement under these regulations must formulate, publish, and keep this under review.

If the employer decides to amend the policy, a new written statement must be published within a month of when the employer decided on the amendment(s). No change can come into effect until one month has passed since the date the amended policy statement was published.

In formulating and reviewing its policy an employer is required by the Regulations to:

- have regard to the extent to which the exercise of their discretionary powers, unless properly limited, could lead to a serious loss of confidence in the public service, and
- be satisfied that the policy is workable, affordable, and reasonable having regard to the foreseeable costs.

Disclaimer: This document has been prepared based on a standard form document provided by the North-East Scotland Pension Fund (NESPF). The standard form on which this document is based represented NESPF's understanding of the information available at the time that document was published including the relevant statutory Instruments governing the Local Government Pension Scheme in Scotland and associated overriding legislation. Changes to rules and regulations can happen at short notice. It is acknowledged that employers should take their own legal/ financial advice on the interpretation of any particular piece of legislation. It is further acknowledged and should be noted that no responsibility whatsoever will be assumed by NESPF for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by employers or readers relying on any information contained in this document.